

## Message Text

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PAGE 01 LILONG 01420 131624Z  
ACTION AF-08

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CIAE-00 DODE-00 PM-04 H-01 INR-07 L-03 NSAE-00 NSC-05  
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C O N F I D E N T I A L LILONGWE 1420

E.O. 11652: GDS  
TAGS: SHUM, MASS, PFOR, PINS, PINT, PORT, EAID, EFIN, MI  
SUBJECT: COMMENTS AND SUGGESTED REVISIONS OF DRAFT TEXT OF REPORT  
ON HUMAN RIGHTS IN MALAWI

REF: A. STATE 301108 B. LILONGWE 1419

1. PARA I. CHANGE LAST SENTENCE TO READ: "MALAWI'S UNICAMERAL NATIONAL ASSEMBLY CURRENTLY HAS 80 ELECTED MEMBERS AND 16 APPOINTED BY THE PRESIDENT."
2. PARA II. CHANGE LAST SENTENCE TO READ: "AND PRESIDENT BANDA PUBLICLY DECLARED IN MAY 1975 THAT HABEAUS CORPUS IS "HOKUS POKUS" AND NO LONGER EXISTS IN MALAWI IN CASES INVOLVING POLITICAL OPPOSITION OR SUBVERSION."
3. PARA III. A, ARTICLE 3. CHANGE TO READ: "THE RIGHTS TO LIBERTY AND THE SECURITY OF THE PERSON, ETC..." WE HAVE DELETED "TO LIFE" BECAUSE WE EMPHATICALLY DO NOT BELIEVE AND HAVE NO EVIDENCE TO SUGGEST THAT THE RIGHT TO LIFE IS FREQUENTLY CONTRAVENED IN MALAWI.
4. PARA III. A, ARTICLE 5. CHANGE SECOND SENTENCE TO READ:  
"ALTHOUGH MALAWI EXILE SOURCES ALLEGE THAT POLITICAL DETAINEES ARE TORTURED AND OTHERWISE BRUTALLY TREATED, THERE IS NO INDEPENDENT CONFIRMATION OF THESE REPORTS. TWO FORMER POLITICAL DETAINEES, ONE A JEHOVAH'S WITNESS AND ONE NOT, HAVE REPORTED THAT THEIR PRISON EXPERIENCES DID NOT INCLUDE TORTURE OR PHYSICAL MISTREATMENT. IT IS OUR BELIEF THAT BRUTALITY TOWARD AND TORTURE OF PRISONERS ARE NOT OFFICIALLY CONDONED OR PERMITTED. IN THE COURSE OF THE  
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PAGE 02 LILONG 01420 131624Z

INTENSE CAMPAIGN AGAINST THE JEHOVAH'S WITNESS SECT IN 1972-73,

VIOLENCE SANCTIONED BY THE MALAWI CONGRESS PARTY THROUGH ITS YOUTH LEAGUE DID RESULT IN MANY DEATHS. THIS VILLENCE OCCURED TOTALLY OUTSIDE THE LEGAL SYSTEM AND DID NOT INVOLVE THE POLICE OR PRISON AUTHORITIES. PRISON CONDITIONS IN MALAWI REFLECT THOSE OF A DEVELOPING COUNTRY WITH LIMITED RESOURCES. PRISONS ARE OVER-CROWDED AND UNSANITARY AND FOOD AND MEDICAL ATTENTION ARE MINIMAL. MOST FAMILIES SUPPLEMENT THE PRISONER'S DIET BY PROVIDING FOOD PARCELS. PRISONERS OFTEN SEEN IN WORK GANGS DO NOT APPEAR WEAK OR EMACIATED AND ARE USUALLY ACCOMPANIED BY AN UNARMED GUARD WITH WHOM THEY SEEM TO CONVERSE IN A RELAXED MANNER. ESCAPES FROM PRISON OR FROM PRISONER WORK GANGS SEEM ALMOST NEVER TO BE ATTEMPTED.

5. PARA III A, ARTICLE 9. DELETE LAST SENTENCE. CHANGE SECOND SENTENCE TO READ: "IN MID-1976 ESTIMATES OF THOSE DETAINED UNDER SUCH ORDER RANGED FROM 1,000 TO 2,000. IN DECEMBER 1976, A SUBSTANTIAL NUMBER OF POLITICAL DETAINEES (ESTIMATED TO BE ABOUT 370) WERE REPORTEDLY RELEASED UN THE WAKE OF THE DETENTIONS OF THE HEAD OF THE POLICE SPECIAL BRANCH AND THE SECRETARY GENERAL OF THE MALAWI CONGRESS PARTY. THESE TWO MEN, WHO WERE EXPELLED FROM THE PARTY FOR GROSS BREACH OF DISCIPLINE AND ALLEGED GROSS MISUSE OF POWER, ARE BELIEVED TO HAVE FALSELY CHARGED HUNDREDS OF MALAWIANS. UNDER DETENTION BY PRESIDENTIAL ORDER, NO ARREST WARRANT IS REQUIRED, NO CHARGES NEED BE BROUGHT..."

6. PARA III. ARTICLES 10 AND 11. ADD TO LAST SENTENCE:  
"ALTHOUGH AS NOTED ABOVE, HABEAS CORPUS CAN BE EFFECTIVELY SUSPENDED BY THE PRESIDENT IN THE CASE OF POLITICAL DETENTIONS UNDER THE PUBLIC SECURITY REGULATIONS."

7. PARA III B, OTHER IMPORTANT FREEDOMS. AFTER "DANGEROUS TO GOOD GOVERNMENT," DELETE NEXT SENTENCE AND CHANGE TO READ AS FOLLOWS: "IN AUGUST 1975 SOME 15,000 TO 20,000 MALAWIAN WITNESSES WERE, OVER A 3-DAY PERIOD, RUTHLESSLY AND BRUTALLY EXPELLED BY FRELIMO FROM MOZAMBIQUE WHERE THEY WERE LIVING PEACE-ABLY FOLLOWING THEIR FLIGHT FROM MALAWI IN 1972-1973. UPON RETURN TO MALAWI TERRITORY THEY WERE HARASSED AND MOLESTED AND FOR SEVERAL MONTHS THEREAFTER MANY WERE BROUGHT TO TRIAL UNDER THE BANNING LAW AND SENTENCED TO PRISON FOR ONE TO THREE YEARS, BUT THERE IS NO INDEPENDENT CONFIRMATION OF REPORTS OF RENEWED  
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PAGE 03 LILONG 01420 131624Z

ATROCITIES AGAINST MALAWIAN WITNESSES. FOR THE PAST SEVERAL MONTHS HARASSMENT AND TRIALS OF WITNESSES SEEM TO HAVE CEASED. PRESS AND OTHER INFORMATION MEDIA, ETC..."

8. PARA IV. OTHER REPORTING. WE PRESUME THIS PARAGRAPH MUST STAND AS IT IS BUT WE HAVE READ THE AMNESTY INTERNATIONAL REPORT AND HAVE NOTED THAT AFTER DESCRIBING CHARGES AS "ALLEGED" OR "REPORTED" IT THEN GOES ON TO TREAT THEM AS FACTUAL. WE

SERIOUSLY QUESTION BOTH THE CHARGE OF TORTURE AGAINST DETAINEES  
AND DEATHS (AT LEAST ABNORMAL DEATHS) IN DETENTION.  
STEVENSON

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